



TOWN OF BEDFORD

www.bedfordny.gov

AGENDA

BEDFORD ZONING BOARD OF APPEALS

**425 Cherry Street, 2nd Floor Conference Room
Bedford Hills, New York 10507**

WEDNESDAY, June 11, 2014

**MINUTES: April 2, 2014
7:30 P.M.**

CARRYOVER APPLICATION:

1. Benjamin Morton and Christy Counts, 44 Bayberry Lane, Bedford, NY 10506. Section 84.13 Block 1 Lot 27, R-4 Acre Zoning District. The applicants request a variance of the Town of Bedford Zoning Ordinance to permit the installation of plumbing facilities consisting of a half bath (1 toilet and 1 sink) in a newly constructed accessory structure (4-stall barn) where plumbing in accessory structures is prohibited. Article I Section 125-3 Definition of Studio.

NEW APPLICATIONS:

1. Sarles Realty LLC, c/o Shamberg Marwell Hollis Andreyck & Laidlaw, PC, 234 Sarles Street, Bedford Corners, NY 10549. Section 94.5 Block 1 Lot 8, R-4 Acre Zoning District. The applicant seeks an interpretation or in the alternative a variance of the Town of Bedford Zoning Ordinance to permit: The creation of an accessory apartment within an existing residence resulting in an apartment where the owner of the lot on which the accessory apartment is located is a limited liability company and one of whose members will be a resident of at least one of the dwelling units on the premises and where no more than 5 persons shall occupy the lot. Article VIII Section 125-79 B. (2) and (3).

2. 570 Bedford Road LLC, Splash Bedford Hills, LLC, ONAB Corp., 562 and 570 Bedford Road & Valerio Court, Bedford Hills, NY 10507. Section 72.5 Block 1 Lot 33, 39, 39.1, RB & R-1/2 Acre Zoning District. The applicant requests a Special Use Permit in accordance with Article V Section 125-49 and Article VIII Section 125-68 of the Town of Bedford Zoning Ordinance to permit the operation of a car wash and detail facility which such uses are classified as "public garages" under the Town of Bedford Zoning Code.

3. The Estate of Frances C. Tilt, 33 Hook Road, Bedford, NY 10506. Section 73.14 Block 1 Lot 15, R-4 Acre Zoning District. The applicant requests a variance of the Town of Bedford Zoning Ordinance to permit an already installed 4-foot wood board fence on top of an existing 2-foot high stone wall as a replacement for a pre-existing, non-conforming wood board fence resulting in a total height of 6 feet in the front yard where 4 feet is permitted when the fence is located less than 20 feet from the front property line. There is an existing, non-conforming wire fence located in front of the wall.

Article III Section 125-15 A (1) (b) and (3) (g)

Zoning Board of Appeals Meeting – Wednesday, June 11, 2014
425 Cherry Street, Bedford Hills – 2nd Floor Conference Room
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4. Giuseppe and Camille Luppino, 212 Baldwin Road, Mt. Kisco, NY 10549. Section 83.08 Block 1 Lot 12, R-4 Acre Zoning District. The applicants request a variance of the Town of Bedford Zoning Ordinance to permit the construction of a detached accessory structure to be used as a 2-bay garage with a studio apartment above which the family will occupy while a new single family residence is under construction resulting in two residences on one building lot during construction which is a variance of Article III Section 125-12A. The cottage does not meet the requirements of the Town Code resulting in variances of Article VIII Section 125-79.1A. (1) and (2) to permit a cottage to be located in a structure that has been in existence for less than 5 years and where total floor area to be occupied by the cottage has been in existence for less for less than 5 years.

5. Kevin McKenna dba Twist Frozen Yogurt and Bar and D.R. Katonah, LLC (Owner), 120 Bedford Road, Katonah, NY 10536. Section 60.7 Block 2 Lot 37, CB Zoning District. The applicants request a variance of the Town of Bedford Zoning Ordinance to permit: 1. Four signs on the parcel where 2 signs are permitted. Article XI Section 125-20.B, 125 Attachment 1. 2. A Type D: Window. A sign painted on the rear window of the building covers more than 20% of the glass area of the window in which it is located. Article XI Section 125-120.B. (4).

Supporting documentation for all items on this agenda is available at the Town of Bedford website www.bedfordny.gov . (Enter – Town Meetings – Meeting Agenda Zoning Board of Appeals). Larger documents and plans are available at the office of the Zoning Board of Appeals
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PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **Benjamin Morton and Christy Counts**
44 Bayberry Lane
Bedford, NY 10506

For a variance of the Town of Bedford Zoning Ordinance to permit:

The installation of plumbing facilities consisting of a half bath (1 toilet and 1 sink) in a newly constructed accessory structure (4-stall barn) where plumbing in accessory structures is prohibited. This being a variance of Article I Section 125-3 Definition of Studio for property owned by the applicant and located on:

44 Bayberry Lane
Bedford, NY 10506

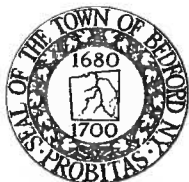
*Carry over
to 6-11-14*

designated as Section 84.13 Block 1 Lot 27 on the Tax Map of the Town of Bedford in an R-4 Acre Zoning District. Said hearing will take place on **Wednesday, the 7th day of May 2014**, at the Town House Offices, 2nd Floor Conference Room, 425 Cherry Street, Bedford Hills, New York, at **7:30 P.M.** At this hearing all persons appearing in favor of or in opposition to the above application will be heard. Attendance at said hearing is not required. Applicants or their representative must be present.

DATED: April 10, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello, Secretary
Town of Bedford Zoning Board of Appeals
425 Cherry Street
Bedford Hills, NY 10507
(914) 666-4585
acostello@bedfordny.gov
www.bedfordny.gov



ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507

Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.gov

RECEIVED

MAY 31 2014

APPLICATION FOR A VARIANCE

BEDFORD ZONING
BOARD OF APPEALS

1. Name of Owner: Benjamin Morton & Christy Counts

Address: 44 Bayberry Lane Bedford

Telephone/Email: (917) 868-4072

2. Name of Applicant, if other than Owner: Douglas Adam LLC - Doug Slater

Address: 24 Millers Mill Rd Bedford

Telephone/Email: 914-514-8734 doug@douglas-adam.com

3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):

Address: _____

Telephone/Email: _____

4. Identification Property:

Street Address: 44 Bayberry Lane

Tax ID: 84.13-1-27 Zoning District: 4A Total Land Area: 7.513

Age of the Building To Be Constructed

Is the property located in a designated Historic District? _____

% of Building Coverage: 2.46 % of Impervious Surface 5.23

Property Abuts a State or County highway, parkway, thruway or park: Yes _____ No ☒

Property is within 500 feet of the boundary of the Town of Bedford: Yes _____ No ☒

Property is on the east side of Bayberry Ln within the unincorporated area of the Town of Bedford.

ZONING BOARD OF APPEALS

APPLICATION FOR A VARIANCE

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5. Request:

The applicant requests that the Board approve the issuance of a Variance under the following section of the Code of the Town Bedford:

Article: _____

Section: 125-3

RECEIVED

MAY 31 2014

To Permit:

1/2 BATH IN NEW BARN

BEDFORD ZONING
BOARD OF APPEALS

6. Plans required:

Include six copies of survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

8. Fees: (make checks payable to the Town of Bedford)

Variance

(As required by Fee Schedule Town of Bedford Code)

Residential:

\$350.00

Commercial:

\$550.00

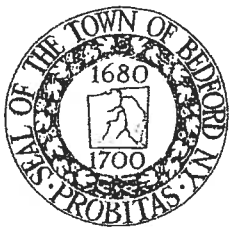
Signature of Owner

Date

[Signature] MANAGING MEMBER
Signature of Applicant DAVIDS BARN LLC

4/3/14
Date

LETTER OF PERMIT DENIAL



Town of Bedford
Building Dept.
425 Cherry St.
914-666-8040

Application #:

Date: 3/31/2014

Parcel ID: 84.13-1-27

Owner Information

Morton, Benjamin

Applicant Information

Morton, Benjamin

44 Bayberry Ln

Bedford Corners NY 10549

Location: 44 Bayberry Ln

Parcel ID: 84.13-1-27

Permit Type: Barn

Work Description: 4-Stall Barn with Tack Room, Mechanical Room, (Plumbing consisting of half bath);
Office in Loft

Dear Resident,

Regarding the application for a Building Permit on the property referenced above, the following facts are noted. This property is located in R-4A Zoning District. The requirements of the Zoning Ordinance of the Town of Bedford in comparison to your proposal are listed as follows:

The installation of plumbing facilities consisting of a half bath in an accessory structure (barn) is prohibited.
Article I Section 125-3 Definition of Studio

Because your project does not meet the requirements of the Town of Bedford Zoning Ordinance, your application for a building permit is DENIED. If you wish to proceed with your request, you may, within sixty days of this letter, apply to the of the above provisions

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven Fraietta", is written over a horizontal line.

Steven Fraietta
Building Inspector

Douglas Adam LLC
44 Bayberry Lane - Variance For 1/2 Bath In New Barn

Building Coverage

House - 4,124 sq/ft
Cottage - 624 sq/ft
Barn - 2,304 sq/ft
Pool - 1,000 sq/ft
TOTAL - 8,052
 $8,052 \text{ sq/ft} / 327,266 = 2.46\%$

Impervious Surface Coverage

Pool Deck - 500 sq/ft
Driveway - 7,280 sq/ft
Walks/Patios - 797 sq/ft
Wood Deck - 494 sq/ft
Buildings - 8,052 sq/ft
TOTAL - 9,061 sq/ft
 $\text{TOTAL} - 17,113 \text{ sq/ft} = 5.23\%$

Lot/Acres - 7.513
Lot Area = 327,266

Mrs. Oren Root, 35 Bayberry Lane, 914-234-7081, 93 years old and owner of property located across the road from the applicants parcel.

Mrs. Root called Alexandra Costello on 4/22/14 @ 3:35 p.m. stating that she no objection to the applicant's proposal provided a separate septic system is installed to prevent run off onto the property due to the number of children in the area.

Morgan /Counts

RECEIVED
APR 22 2014
BEDFORD ZONING
BOARD OF APPEALS

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **Sarles Realty LLC**
c/o Shamberg Marwell Hollis Andreyck & Laidlaw, PC
55 Smith Avenue
Mount Kisco, NY 10549

The applicant seeks an interpretation or in the alternative a variance of the Town of Bedford Zoning Ordinance to permit: The creation of an accessory apartment within an existing residence resulting in an apartment where the owner of the lot on which the accessory apartment is located is a limited liability company and one of whose members will be a resident of at least one of the dwelling units on the premises and where no more than 5 persons shall occupy the lot. This being a variance of Article VIII Section 125-79 B. (2) and (3) for property owned by the applicant and located on:

234 Sarles Street
Bedford Corners, New York 10506

designated as Section 94.5 Block 1 Lot 8 on the Tax Map of the Town of Bedford in an R-4 Acre Zoning District. Said hearing will take place on **Wednesday, the 11th day of June 2014**, at the Town House Offices at 425 Cherry Street, Bedford Hills, New York, at **7:30 P.M.** At this hearing all persons appearing in favor of or in opposition to the above application will be heard. Attendance at said hearing is not required. Applicants or their representative must be present.

DATED: May 21, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello, Secretary
Town of Bedford Zoning Board of Appeals
425 Cherry Street, Bedford Hills, NY 10507
(914) 666-4585; FAX 914-666-2026
acostello@bedfordny.gov
www.bedfordny.gov

SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE
MOUNT KISCO, NEW YORK 10549
(914) 666-5600

May 1, 2014

Via Hand Delivery

Hon. Peter Michaelis, Chairman
and Members of the Zoning Board of Appeals
Town of Bedford
425 Cherry Street
Bedford Hills, NY 10507

RECEIVED

MAY 2 2014

BEDFORD ZONING
BOARD OF APPEALS

Re: *Sarles Street, LLC*
Application for Area Variances from Section 125-79
Premises: 234 Sarles Street, Bedford, New York
Section 94.5, Block 1, Lot 8

Dear Chairman Michaelis and Members of the Zoning Board of Appeals:

Our firm represents Sarles Realty LLC (the "Applicant") with respect to its application for a special use permit pursuant to Article VIII, Section 125-79, to allow the creation of an accessory apartment within an existing single-family residence on its property located at 234 Sarles Street, and identified on the tax map of the Town as Section 94.5, Block 1, Lot 8 (the "Property"). The Applicant now applies to your Board for certain area variances in connection therewith.

The Planning Board is authorized to grant a special permit in the Residence Four-Acre Zoning District for the creation of an accessory apartment within a single-family residence, subject to twelve specific standards. The Applicant appeared before the Planning Board on February 18, 2014 and on April 8, 2014. In response to the Planning Board's comments and suggestions at the February meeting, the Applicant revised its plans for the apartment. At its April meeting, the Planning Board accepted the plans, as revised, but denied the application on the basis of its failure to comply with one of the twelve specific special permit standards, as discussed herein. A copy of the Planning Board Resolution No. 14/11 is attached.

In addition, in order to proceed to this Board, the Applicant sought review of its plans by the Building Inspector and submitted its Building Permit application on April 24, 2014. We expect a denial of said application on the basis of the failure to satisfy one or more of the twelve special permit standards.

Hon. Peter Michaelis, Chairman
and Members of the Zoning Board of Appeals
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In furtherance of this application for area variances, we enclose along with this letter six (6) sets of the following:

- Completed Town of Bedford Zoning Board of Appeals Application for a Variance;
- Letters to the Planning Board on behalf of the Applicant dated February 3, 2014 and March 25, 2014;
- Completed Town of Bedford Environmental Clearance Form;
- Completed Short Environmental Assessment Form;
- Survey entitled "Survey of Property prepared for Sarles Realty LLC," dated August 3, 2012, rev. dated July 13, 2013, prepared by H. Stanley Johnson and Company;
- Certificate of Compliance No. 2013-1694 for interior alterations, issued on August 29, 2013;
- Drawings prepared by Carol Kurth Architecture P.C., dated January 31, 2014, with revisions through March 20, 2014, which include the existing/previously approved foundation, first floor and second floor existing conditions plans, the proposed alteration to the first floor level showing the accessory apartment, and the proposed alteration to the second floor level for storage purposes;
- Planning Board Resolution No. 14/11 adopted on April 8, 2014, and dated April 22, 2014;
- Zoning Board of Appeals Resolution No. 2-00 One, concerning Trelawny Farms Inc.

Additionally, we submit a check made payable to the Town of Bedford in the amount of \$350.00 for the variance application fee.

The Property is located within the Residence Four-Acre District, and is 5.24 acres in size. The Property is improved with an approximately 6,826 square foot residence, and has an existing building coverage of 1.98% where 3.0% is permissible, and impervious surface coverage of approximately 7.76% where 8.0% is permissible.

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and Members of the Zoning Board of Appeals
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INTRODUCTION

Members of the Applicant, Nelson and Claudia Peltz, and their related entities own a total of approximately 178 acres of land within the Town, which, with the improvements thereon, requires significant maintenance and management. Accordingly, a number of individuals are employed to assist in the management of the collective estate.

As the Bedford Zoning Code does not provide a direct mechanism for the provision of staff housing, Mr. and Mrs. Peltz have explored other avenues for housing. For example, this Board recently granted a variance for the adjoining property at 262 Sarles Street to permit more than four employees to reside at that property as a single family unit with separate bedrooms and bathrooms but with a common kitchen. There is no accessory apartment or cottage on that property.

In this instance, the Applicant proposes to construct an accessory apartment within the main portion of the existing single-family residence. The "main dwelling" portion of the residence has been, and continues to be, occupied by an employee of nearly twenty years' seniority, who will become a member of the Owner/Applicant LLC, and who will continue to reside with his wife and four children in the residence. The proposed apartment would be occupied by a full-time employee and his wife who are unrelated to the residents in the main dwelling portion of the residence.

The proposal is to section off part of the first floor level to create an 875 square foot one-bedroom accessory apartment. The apartment's floor area would be approx. 13.8% of the total existing square footage of the first and second floors of the residence, which total 6,358 square feet. The apartment would be located in the wing of the house that is currently a playroom (originally a garage), by reconfiguring and converting the existing wet bar, playroom, bedroom, and bathroom into a kitchen/living area, bedroom, and bathroom. The existing internal staircase will be closed off and the second floor area above the apartment that currently contains bathrooms and bedrooms will be converted into storage space, with access provided by an external staircase. Furthermore, the entry door into the apartment will be located on an existing side deck.

The annexed Certificate of Compliance confirms that the alterations to the first floor area were previously approved by the Building Department, including an entertainment area, playroom, wet bar, 3 bedrooms, 2 full baths, 2 open decks, and a rear storage lean to shed.

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All of these individuals will reside rent-free at the Property, as Mr. and Mrs. Peltz provide, and will continue to provide, rent-free housing for staff. Thus, neither the main portion of the residence nor the accessory apartment will be rented, as the Property will be used solely to provide housing for employees who support the family members and assist in the management of the properties owned by Mr. and Mrs. Peltz and their related entities.

THE SPECIAL PERMIT STANDARDS AT ISSUE

For the reasons set forth in the enclosed February 3, 2014 letter to the Planning Board, the Applicant meets all of the general standards for the requested special use permit and all but two of the twelve specific standards set forth in Section 125-79. The second and third standards, as written, simply cannot be met by the Applicant.

The second standard requires that "[t]he owner of the lot on which the accessory apartment is located shall occupy at least one of the dwelling units on the premises." In this instance, the property is owned by a Limited Liability Company, not an individual. The long-time employee of the Peltzes who, together with his family, occupies the main portion of the house, will become a member of the Applicant. For the reasons discussed herein, we submit that this arrangement meets the purpose of the legislative occupancy requirement.

The third standard requires that "[n]o more than five persons shall occupy the lot." In this instance it is impossible to limit the number of persons on the lot to five since the family already occupying the residence consists of two adults and four children. Thus, even without an accessory apartment, the standard is exceeded. The proposed accessory apartment would add only two individuals, an employee and his wife. The two existing, fully-approved septic systems have been approved for the same number of bedrooms, as the accessory apartment will be created from an existing bedroom and bathroom.

We note that although the maximum square footage for an accessory apartment is 800 square feet, the Planning Board has waived the additional 75 feet of space proposed as that constitutes less than a 10% increase in size. Further, as the Planning Board's denial refers to the second standard only, we suggest that the Planning Board has also waived compliance with the third standard. Nevertheless, we address both the second and third standards in this submission.

All of the other special use permit criteria, including all dimensional requirements, are fully satisfied.

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and Members of the Zoning Board of Appeals
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THE REQUEST FOR AREA VARIANCES

The Balancing Test

Section 267-b(3)(b) of the New York State Town Law (and Article XII, Section 125-129(C)(2)(b) of the Zoning Code), sets forth the following “balancing test” to be applied by the Zoning Board in its review of this application for area variances:

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

We examine the Applicant’s requested area variance in light of each of the foregoing factors below:

The Benefit to the Applicant Far Exceeds Any Detriment to the Community

New York State courts have established that, where the benefit of the requested variance to the applicant is great, similar variance applications have been approved in the past, and any

Hon. Peter Michaelis, Chairman
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detriment to the neighborhood is minimal, a zoning board should grant the variance. *See e.g., Tall Trees Const. Corp. v. Zoning Bd. of Appeals of Town of Huntington*, 97 N.Y.2d 86, 735 N.Y.S.2d 873 (2001).

The benefit to the Applicant of the requested variance is great, as the ability to provide safe, rent-free and desirable housing to individuals employed at their properties, individuals who in many cases are long-term employees and may not otherwise be able to secure affordable housing within the Town, is significant. Should an additional employee not be able to reside at the Property, he and his wife may be forced to commute great distances, find themselves in less desirable and possibly less safe living conditions in neighboring communities, or be precluded from such an employment opportunity due to, among other things, the lack of suitable housing or transportation.

Additionally, it is respectfully submitted that the grant of the proposed area variances would further certain goals of the Town's Comprehensive Plan such as the preservation of open space within the Town, a great deal of which the Comprehensive Plan recognizes is in private hands in the form of large estates that should be protected, as they are subject to significant development potential. The ability to provide safe housing for their employees on their properties contributes to Mr. and Mrs. Peltz's ability to manage their substantial property holdings within the Town.

The Comprehensive Plan further recognizes that there is a shortage of moderately priced housing within the Town, and that the mechanisms for creating affordable housing are numerous. In this instance, the proposed employee housing would be provided rent-free by the Applicant to employees.

The need for the creation of affordable housing is not only recognized by the Comprehensive Plan, but also in the ongoing implementation of the 2009 affordable housing lawsuit settlement between Westchester County and the U.S. Department of Housing and Urban Development. Indeed, in March 2013, Federal Monitor James Johnson noted that additional affordable housing creation to meet the Town's affordable housing unit goal "will remain rare without creative solutions." We submit that this application may present one such creative solution or mechanism.

Furthermore, it is respectfully submitted that there will be no detriment to the community as a result of the requested area variances, in part because the Property is part of the larger Peltz estate and the proposed accessory apartment is only 13.8% of the total floor area of the main residence. No external modifications to the residence are proposed and the only interior

Hon. Peter Michaelis, Chairman
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structural change will be to close off the hall connecting this portion of the house with the main portion of the residence.

Moreover, there is precedent with respect to the variance for the second specific special use permit standard that requires that the property owner occupy either the main residence or the accessory apartment. In or around the 1999/2000, an application by Trelawny Farms Inc. to this Board involved similar issues since the property located on Indian Hill Road was owned by a corporate entity and the applicant sought permission for two accessory apartments at the single-family residence. This was a horse property that, as in this case, required the housing of employees. After much discussion on the topic of "owner occupancy," this Board adopted Resolution No. 2-00 - One, annexed hereto which waived the requirement that the owner occupy one of the dwelling units subject to the following conditions: "(1) An officer of the Corporation shall reside on the property and (2) The property shall only be occupied by on-site employees of the Corporation." In this case, we request that this Board similarly waive the requirement with the condition that the person residing in the main residence always be a member of the Limited Liability Company that owns the Property. It is also significant that accessory apartment would not be rented and would be used only to provide rent-free housing for individuals employed at nearby properties owned by Mr. and Mrs. Peltz, members of the Applicant, and their related entities.

**Granting The Variances Will Not Create
an Undesirable Change in Neighborhood
Character or a Detriment to Nearby Properties**

With respect to the first of the five statutory sub-criteria to be applied in the balancing test, regarding neighborhood character, the Applicant submits that the granting of the area variances will not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The Property is larger than the minimum required district size(s), the existing single-family residence complies with applicable maximum coverage limitations, and there will be no change to the exterior of the residence. The proposal will utilize an existing area with a wet bar, playroom, bedroom and bathroom and restructure it by adding wall partitions, relocating the bathroom, and converting an existing wet bar into a kitchen with the addition of a stove. The existing bedrooms on the second floor will become storage space.

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We respectfully submit that the granting of the requested variances would not result in any undesirable change in the character of the neighborhood or create a detriment to nearby properties, thereby satisfying the first statutory sub-criterion under the balancing test.

**There is No Other Feasible Method to
Obtain the Benefit Sought By the Applicant**

With respect to the second of the five statutory sub-criteria to be applied in the balancing test, regarding other feasible methods to obtain the benefit sought, the Applicant is seeking to create an accessory apartment that meets all dimensional requirements but that it cannot meet two criteria due to existing circumstances.

The Zoning Code requires that an owner occupy one of the dwelling units and limits the number of people residing on a lot to five (5). However, because the Property is owned by a Limited Liability Company rather than an individual and there is already a family at the main residence that consists of six (6) individuals before one adds the two residents of the proposed accessory apartment residents, the Applicant has no other option for creating the accessory apartment than to seek the requested variances.

Thus, the Applicant cannot provide the additional employee and his wife with the opportunity to reside at the Property without the requested variances.

The Variances Are Not Substantial

With respect to the third sub-criterion, the Applicant submits that the requested variances are insubstantial. It is established generally that the substantiality of a variance must be viewed in its context, not just as a mathematical calculation. *See e.g., Aydelott v. Town of Bedford Zoning Board of Appeals*, 6/25/2003 N.Y.L.J. 21 (col. 4) (J. Dickerson); *Robbins v. Seife*, 215 A.D.2d 665, 628 N.Y.S.2d 311 (2d Dept. 1995). What is substantial is relative, based upon the particular circumstances.

It is respectfully submitted that the requested area variances are not substantial when one considers that there is no deviation from the dimensional standards and the existing single-family residence is compliant with all coverage requirements.

The requirement that an owner occupy one of the dwelling units can be easily satisfied with a condition that a member of the Limited Liability Company that owns the Property continue to reside at the Property. This will ensure that the residence is not leased to individuals

Hon. Peter Michaelis, Chairman
and Members of the Zoning Board of Appeals
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unrelated to the Peltz estate. The Applicant has also stated on numerous occasions that the accessory apartment will be used only by employees and will be provided rent-free.

The requirement that no more than five persons may occupy the Property appears to be aimed at preventing overcrowding. However, the main residence is 6,826 square feet, which is plenty of room to house the family that already resides there that is made up of six (6) individuals. The proposed 875 square foot accessory apartment will be for two additional people, an employee and his wife, leaving over 6,000 square feet for the family in the main residence. Thus, although there would be 8 persons residing at the house, in context it is simply not a substantial deviation from the 5 person limit. Furthermore, there are two approved septic systems already on the Property that service the existing household, which includes the existing bedroom and bathroom that will become part of the accessory apartment.

In light of foregoing, we submit that the requested variance is not substantial. However, even if the variance is found to be substantial, this is but one element of the balancing test and not determinative.

**The Variances Will Have No Adverse
Effect on the Physical or Environmental
Conditions in the Neighborhood**

With respect to the fourth statutory sub-criterion, the proposed area variance will have no adverse effect or impact on the physical or environmental conditions in the neighborhood.

As discussed above, the Property is larger than the minimum lot size of 4 acres and the accessory apartment will be located entirely within the existing single-family residence on the Property. There will be no external changes to the residence and all dimensional requirements for the accessory apartment will be met. The variances at issue pertain to standards that seek to retain control over the accessory apartment and perhaps to prevent overcrowding, neither of which concerns apply in this instance.

Thus, we submit that the requested area variance will not result in any adverse impacts on the physical or environmental conditions in the neighborhood.

Hon. Peter Michaelis, Chairman
and Members of the Zoning Board of Appeals
May 1, 2014
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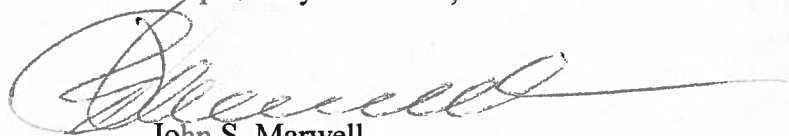
**The Requested Variances Are Not
The Result of a Self-Created Difficulty**

In this case, the Applicant has taken great pains to ensure that all dimensional criteria are met and that there are minimal exterior or interior changes to accommodate the proposed accessory apartment. The special permit criteria at issue are beyond the Applicant's control as they pertain to the ownership of the Property and the number of existing residents at the Property.

However, even if considered to be self-created, it is established that the issue of whether a difficulty is self-created expressly is not determinative in the context of an area variance because other factors should be weighed more heavily and a finding of self-created difficulty does not preclude a board of appeals from granting a variance.

We respectfully request that you place this application on your Board's next available agenda, and look forward to discussing its merits with your Board in further detail at that time.

Respectfully submitted,



John S. Marwell

JSM/tt
Enclosures

c: Joel H. Sachs, Esq., Town Attorney (w/encs.)
Hon. Deirdre Courtney-Batson, Chairwoman
Town of Bedford Planning Board (w/encs.)



ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507

Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.info

APPLICATION FOR A VARIANCE

1. Name of Owner: Sarles Realty, LLC

Address: c/o Shamberg Marwell Hollis Andreyca & Laidlaw, P.C., 55 Smith Ave., Mt. Kisco, NY 10549

Telephone/Email: (914) 666-5600 jmarwell@smhal.com

2. Name of Applicant, if other than Owner: _____

Address: _____

Telephone/Email: _____

3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):

Carol Kurth Architecture, P.C.

Address: 644 Old Post Road, Bedford, New York 10506

Telephone/Email: (914) 234-2595 carol.kurth@carolkurtharchitects.com

4. Identification Property:

Street Address: 234 Sarles Street, Bedford Corners, NY 10549

Tax ID: Section 94.5, Block 1, Lot 8 Zoning District: R-4A

Total Land Area: 5.24 acres

% of Building Coverage: 1.98% % of Impervious Surface 7.76%

Property Abuts a State or County Highway, parkway, thruway or park: Yes _____ No X

Property is within 500 feet of the boundary of the Town of Bedford: Yes: _____ No: X

Property is on the east side of Sarles Street within the unincorporated area of the Town of Bedford.

RECEIVED
FEB 4 2014
BEDFORD ZONING
BOARD OF APPEALS

**ZONING BOARD OF APPEALS
APPLICATION FOR A VARIANCE**

Page 2

5. Request:

The applicant requests that the Board approve the issuance of a Variance under the following section of the Code of the Town Bedford:

Article: Article VIII Section: 125-79(B)(2) and (3)

To Permit:

The creation of an accessory apartment in an existing single-family residence. See attached letter for details.

6. Plans required:

Include six copies of survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

8. Fees: (make checks payable to the Town of Bedford)

Variance

(As required by Fee Schedule Town of Bedford Code)

Residential: \$350.00

Commercial: \$550.00



Signature of Owner
John S. Marwell, as authorized representative
for Sarles Realty, LLC

2/3/14
Date

RECEIVED
FEB 4 2014
BEDFORD ZONING
BOARD OF APPEALS

Signature of Applicant

Date

**PLANNING BOARD
Town of Bedford
Westchester County, New York**

**RECEIVED
APR 24 2014**

**RESOLUTION NO. 14/11
DENIAL
SARLES REALTY LLC**

**BEDFORD ZONING
BOARD OF APPEALS**

WHEREAS, an application received March 25, 2014 from Sarles Realty LLC, 234 Sarles Street, Bedford, New York for approval of a proposed accessory apartment, affecting property located at 234 Sarles Street, Bedford shown and designated on Town Tax Maps as Section 94.5 Block 1 Lot 8, in the Residential Four Acre District, and

WHEREAS, the Planning Board finds that the proposal does not meet the standards for approval as specified in the Town Code as follows:

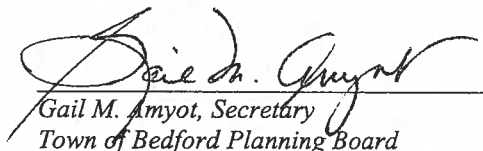
1. The proposal does not meet the requirements of Section 125- 79 (B)(2) – The owner of the lot on which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.

NOW THEREFORE BE IT RESOLVED that the request for approval of the special use permit is hereby denied.

ADOPTED: April 8, 2014

DATED: April 22, 2014

The foregoing resolution is certified to be a true copy of the resolution, which was adopted April 8, 2014 by the Planning Board of the Town of Bedford and was filed in the Office of the Clerk of the Town of Bedford on April 22, 2014.


Gail M. Amyot, Secretary
Town of Bedford Planning Board

LETTER OF PERMIT DENIAL



Town of Bedford
Building Dept.
425 Cherry St.
914-666-8040

Application #:

Date: 5/2/2014

Parcel ID: 94.5-1-8

Owner Information

Sarles Realty LLC

Applicant Information

Sarles Realty LLC

c/o Trian Partners Mgmt

280 Park Ave

New York

NY

10017

Location: 234 Sarles St

Parcel ID: 94.5-1-8

Permit Type: Apartment

Work Description: Creation of an accessory apartment within an existing single family residence.

Dear Resident,

Regarding the application for a Building Permit on the property referenced above, the following facts are noted. This property is located in R-4A Zoning District. The requirements of the Zoning Ordinance of the Town of Bedford in comparison to your proposal are listed as follows:

The creation of an accessory apartment within an existing residence resulting in an apartment where the owner of the lot on which the accessory apartment is located does not occupy at least one of the dwelling units on the premises and where no more than 5 persons shall occupy the lot. The applicant may apply for relief from Article VIII Section 125-79 B. (2) and (3) of the Town Code.

Because your project does not meet the requirements of the Town of Bedford Zoning Ordinance, your application for a building permit is DENIED. If you wish to proceed with your request, you may, within sixty days of this letter, apply to the of the above provisions

Very truly yours,

Steven Fraietta

Building Inspector

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **570 Bedford Road LLC**
 4006 Pleasure Avenue
 Sea Isle City, NJ 08243

ONAB Corp.
PO Box 797
Bedford Hills, NY 10507

Splash Bedford Hills, LLC
625 West Putnam Avenue
Greenwich, CT 06830

For a Special Use Permit in accordance with Article V Section 125-49 and Article VIII Section 125-68 of the Town of Bedford Zoning Ordinance to permit the operation of a car wash and detail facility which such uses are classified as "public garages" under the Town of Bedford Zoning Code on property owned by the applicants and located on:

562 and 570 Bedford Road
Valerio Court
Bedford Hills, NY 10507

Designated as Section 72.5 Block 1 Lots, 33, 39, 39.1 on the Tax Map of the Town of Bedford in the RB and R-1/2 Acre Zoning Districts. Said hearing will take place on **Wednesday, the 11th day of June 2014** at the Town House Offices, 425 Cherry Street, Bedford Hills, New York, at **7:30 P.M.** At this hearing all persons appearing in favor of or in opposition to the above applicants will be heard. Attendance at said hearing is not required. Applicants or their representative must be present.

DATED: May 16, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello, Secretary
Town of Bedford Zoning Board of Appeals
425 Cherry Street
Bedford Hills, NY 10507
(914) 666-4585; (914) 666-2026
acostello@bedfordny.gov
www.bedfordny.gov

CHARLES V. MARTABANO
Attorney at Law

9 McKeel Street
Katonah, New York 10536
cmartabano@gmail.com
(914) 242-6200 Telephone
(914) 242-3291 Facsimile
(914) 760-9241 Cell

April 29, 2014

VIA EMAIL DELIVERY

Chairman Peter Michaelis and
Members of the Zoning Board of Appeals
Town of Bedford
425 Cherry Street
Bedford Hills, New York 10507

RECEIVED
MAY 1 ~ 2014
BEDFORD ZONING
BOARD OF APPEALS

Re: New Car Wash & Detailing Facility for Splash Bedford Hills, LLC
(Old Carvel Site - Bedford Road, Bedford Hills, NY)
Section 72.05, Block 1, Lots 39, 39.1 & 33
Owners: ONAB Corp. and 570 North Bedford Road LLC

Dear Chairman Michaelis and
Members of the Zoning Board of Appeals:

As involved members of the Board are aware, in December of 2012 your Board determined to issue a use variance, two area variances and a special permit for an earlier iteration of a plan to establish a new Splash carwash, detail and quick lube facility at the above referenced properties (hereinafter "Prior Project"). Such Prior Project required issuance of a use variance by reason of the fact that the subject properties referenced above were affected by what can be best referred to as split zoning whereby the rear 50 feet of the combined properties was and continues to be zoned as R ½ acre residential and the applicants then desired to utilize some of the residentially zoned portions in connection with the carwash, detailing and quick lube facilities. Subsequently, the Planning Board granted site plan approval in connection with the Prior Project.

Thereafter, litigation was commenced in the name of a neighboring property owner seeking to (1) set aside the negative declaration issued by the Planning Board as lead agency for the coordinated review of the Prior Project and, (2) challenging the issuance of the use variance and seeking negation of the other approvals predicated upon setting aside the granting of the use variance. In a decision and order issued by Supreme Court on October 4, 2013, the Court fully sustained the issuance of the negative declaration by the Planning Board as lead agency under

SEQRA. The Court also set aside the grant of the use variance by your Board¹ and, based solely on setting aside the use variance, the Court also set aside the granting of the area variances, special permit and site plan approval. It is significant to note, as expressly stated by the Court, that such other approvals were vacated "not because they fail on the merits, but because if the use variance is invalid, these other approvals must be invalid as well...because these other approvals were essentially contingent on getting the use variance in the first place". Accordingly, no substantive decision on the merits of your Board's determinations was ever made by the reviewing Court.

Rather than to await the decision on appeal, the applicants have made a determination to significantly reduce the scope of the Prior Project so as to ***eliminate the proposed quick lube facility and additionally to confine the carwash facility and the detailing operation and the parking applicable thereto to the portion of the properties which is zoned for Roadside Business (hereinafter "Revised Project")***. ***Accordingly, no use or area variance is necessary or being requested in connection with this application.*** What this means in a site plan, special permit and SEQRA context and as can be seen by reference to the revised site plan being submitted herewith is that:

1. the quick lube facility which was previously a component part of the Prior Project has been completely eliminated from the Revised Project with concomitant reduction in associated impacts relative to such facility (traffic, noise, deliveries etc.);
2. parking, which was previously proposed to be located within 10 feet of the rear property line within the residentially zoned portion of the property, has now been relocated approximately 75 feet away from the nearest adjoining residential property to a Code compliant (no necessity for a variance²) location wholly within the Roadside Business zoned portions of the site;
3. All lanes of traffic which previously traversed the residentially zoned portions of the site have now been relocated to occur wholly on the Roadside Business zoned portions of the site thereby moving those lanes of traffic a full 50 feet away from the nearest adjoining residential property;

¹ This aspect of the decision and order is presently the subject of an appeal by the applicants.

² Upon consideration of the merits of such application in connection with the Prior Project, your Board unanimously granted an area variance to locate parking within 25 feet of the rear property line, within the residentially zoned portion of the properties. Such variance is no longer necessary as the parking has been relocated to be wholly within the portion of the properties zoned for Roadside Business.

4. As a consequence of the foregoing, the residentially zoned portions of the site remain undeveloped and unused, thereby providing a buffer twice the size of the buffer required by your Board in its December 2012 resolution.;
5. As a further consequence of the foregoing, and as can be seen by reference to the landscaping plan, significant additional landscaping has been added in the rear of the site.

In addition to the foregoing, as a consequence of the aforementioned modifications to the site plan and the relocation of the acoustic barrier fences, while the Prior Project required issuance of an area variance pertaining to the height of acoustic barrier fences (to allow an eight-foot high fence in the residentially zoned portions of the property) deemed necessary to ensure compliance with both of the noise restriction sections of the Town Code (chapter 83 and section 125-30), no variance will be required for the Revised Project as already confirmed by the Town's acoustic consultant.

Accordingly, the Revised Project now presented to you represents a significantly reduced- scale plan which is 100% compliant with the Bedford Town Code and therefore requires no variances. The request being made to your Board is therefore limited to a request for issuance of a special permit for a public garage as that term is defined by the Bedford Town Code. As your Board is aware, in your decision of December 2012, your Board unanimously voted to issue the same special permit in connection with the significantly more ambitious Prior Project.

Standards pertaining to issuance of the special permit

As members of this Board are aware, a special use permit, also referred to as a special exception, is unique in terms of the legal standards applicable to the granting of same, which are far less than those imposed on an applicant for a variance. The Appellate Division for the Second Department recently restated the standards which have been developed by the courts in connection with the review of determinations upon applications for special permits. In Kabro Associates, LLC v. Town of Islip Zoning Bd. of Appeals, 95 A.D.3d 1118, 944 N.Y.S.2d 277 (2nd Dept., 2012) the Court stated as follows:

“Unlike a use variance, a ‘special exception allows the property owner to put his property to a use expressly permitted by the ordinance ... subject only to “conditions” attached to its use to minimize its impact on the surrounding area’ ” (citations omitted) “The significance of this distinction is that the ‘inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood’ ” (citations omitted). “Thus, the burden of proof on an owner seeking a special exception is lighter than that on an owner seeking a

variance" (citations omitted). An owner seeking a special exception permit is only "required to show compliance with any legislatively imposed conditions on an otherwise permitted use" (*id.*).

Significantly, in *Kabro*, the Appellate Division reversed Supreme Court and directed issuance of a special permit as it found that the ZBA's decision denying same was arbitrary and capricious. In so doing, the Court properly stressed the significance of evidence in the record consisting of expert testimony and the opinion of the Town Department of Planning, concluding that the ZBA's apparent reliance on uncorroborated neighborhood opposition contradicted by such expert and Town Planning Department opinion was arbitrary and capricious. In this regard the Court stated:

"Here, the ZBA's conclusion that the proposed development would fail to comply with the applicable legislatively imposed conditions (see Code of the Town of Islip §§ 68-416, 68-417), and its concomitant determination to deny the petitioner's application, was arbitrary and capricious. The neighboring property owners claimed that the granting of the special exception permit would, among other things, exacerbate existing traffic congestion and decrease the value of their properties. However, these claims were uncorroborated by empirical data, and were contradicted by the expert testimony offered by the petitioner, as well as the opinion of the Town of Islip Department of Planning and Development. Accordingly, the ZBA's determination to deny the petitioner's application lacked a rational basis, and the Supreme Court should have granted the petition."

The applicants require a special permit as a consequence of the fact that the Town Code of the Town of Bedford requires that a special permit be issued for a public garage in the zoning district in which it is proposed to be constructed (RB). General standards for the issuance of such special permit are set forth at section 125-60 of the Town Code. A public garage is defined by the Town Code as "[a]ny garage, other than a private accessory garage, available to the public, operated for gain and which is used for storage, major repair, body work, painting, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles". A public garage is, however, defined separately and distinctly from an automotive service station or gasoline filling station which is defined by the Code as "[a]ny area of land, including structures thereon, or any building or part thereof that is *used for the sale of motor fuels and* which may include the sale of motor vehicle accessories and facilities for lubricating, washing or otherwise servicing motor vehicles, but not including body work, major repair or painting by any means." Accordingly, unless a public garage is also used for the sale of motor fuels, it is not an automotive service station or gasoline filling station.

The relevancy of the foregoing is simply that, in addition to the general standards, the Town Code specifies additional standards and requirements for particular special permit uses including those digested at section 125-68 which are stated to pertain to "automotive service stations or public garages", but which, in actuality, by their specific and unequivocal terms *only*

apply to automotive service stations. By reason of the foregoing, the only standards which govern the issuance of a special permit for a public garage as proposed are those general standards applicable to issuance of special permits by section 125-60 of the Town Code³. These Code sections provide as follows:

§ 125-60. General standards.

- A. The proposed use will serve a community need or convenience and will not adversely affect the public health, safety and general welfare.
- B. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.
- C. The location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- D. Operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, light or other characteristics than might be the operations of any permitted use not requiring a special use permit.
- E. Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses; and the entrance and exit drives shall be laid out so as to achieve adequate safety.

The applicants' position on the application's compliance with these standards will be supplemented subsequent to the Planning Board's issuance of its SEQRA determination and its recommendation/report as required by section 125-59.

The Applicable SEQRA Process As Implemented by the Lead Agency

As noted above, the Town Code requires review of all proposed special permit applications by the Planning Board irrespective of the Board which is ultimately responsible for issuance of the special permit. In accordance with this section, the Planning Board reviewed the Prior Project for more than two years and has been reviewing the Revised Project since its initial submission in March of 2014. As your Board is aware, the Planning Board assumed lead agency status for the review of the Prior Project pursuant to SEQRA and retained such status upon submission of the Revised Project now before you. Most significantly, in connection with

³ This conclusion was verified through correspondence with the Department of Planning reviewed and confirmed by the Town Attorney in May of 2011 and your Board's prior determination.

the Prior Project, the Planning Board issued its negative declaration prior to the significant modifications to the proposed site plan required as a consequence of your December 2012 resolution which, among other things, required installation of a sidewalk along the south side of Valerio Court; prohibited music or amplified sound outside of the buildings and, most importantly, required that the rear 25 feet of the property would not be used for any commercial purposes and instead was required to be utilized as a buffer with the intent that there would be no removal of the steep slope. Accordingly, the Planning Board's negative declaration issued in June of 2012 was based upon a plan which was subsequently modified to further reduce impacts pursuant to your Board's December 2012 determination. As set forth in detail above, the Revised Project contains numerous additional significant modifications which only further reduce impacts as compared to the Prior Project.

As also noted above, the negative declaration issued by the Planning Board and binding on this Board was challenged through the litigation referenced above. Again, it is to be understood that this negative declaration was issued by the Planning Board based on the Prior Project *before* its modification pursuant to your December 2012 resolution. The SEQRA determination made by the Planning Board in the form of a negative declaration was sustained by the reviewing Court upon challenge, with the Court stating that the petitioner's "***substantive challenges to the [Planning Board's] SEQRA determination are without merit***". As befitting a process which consumed two years of SEQRA review alone, the Court dedicated five (5) pages of its decision rebutting every contention made by the petitioner through an exhaustive review of the significant efforts made by the Planning Board to ensure compliance with SEQRA. The Court concluded that the administrative record confirmed that the Planning Board "took a hard look at the environmental issues in this matter and made a reasoned determination regarding them", citing instance after instance of the Planning Board's thorough examination and analysis of the environmental impacts of the project as previously proposed. The Court reviewed each and every challenge to the Planning Board's SEQRA determination from traffic through compliance with the Comprehensive Plan and in each instance determined that the Planning Board acted rationally and appropriately in issuing its negative declaration in connection with the Prior Project.

The Court has therefore made it clear that the Planning Board acted in a completely appropriate manner in issuing the negative declaration based on the more ambitious project/SEQRA action (the Prior Project) previously reviewed by the Planning Board. 6 NYCRR section 617.2 defines an "action" under SEQRA as including "projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure that require one or more new or modified approvals from an agency or agencies". Accordingly, there can be no question that the Planning Board, as lead agency, and your Board are dealing with nothing more than a reduced scale version of the same project /SEQRA action previously reviewed. More importantly, the modifications to the project are such as to ***cause, in each and every respect, the***

Revised Project to present even less environmental impacts than the more ambitious scale Prior Project which was the subject matter of the Planning Board's prior negative declaration and your resolution approving issuance of the special permit. The Revised Project:

1. fully complies with zoning and requires no variances;
2. eliminates the quick lube facility and therefore eliminates:
 - i. any traffic associated with the quick lube facility;
 - ii. any potential for stacking impacts associated with the quick lube facility;
 - iii. any noise associated with the quick lube facility;
 - iv. any deliveries associated with the quick lube facility;
3. significantly decreases impervious surface coverage;
4. significantly decreases building coverage;
5. significantly increases green space;
6. significantly increases landscaping;
7. eliminates all impacts from the residentially zoned portion of the property by moving the parking approximately 75 feet and moving lanes of travel a full 50 feet away from the property line with the nearest residential neighbor, thereby preserving the slope as required by your resolution while doubling the size of the buffer imposed by your Board.

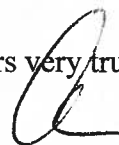
Simply put, the Revised Project ***unequivocally presents far lesser impacts*** than the Prior Project which was the subject of the Planning Board's prior negative declaration under SEQRA, which was judicially sustained in October of 2013 as being consistent with the mandates of the SEQRA law. Additionally, in a SEQRA context, this application must now be determined in the light of existing circumstances which, as your Board is uniquely aware, include the fact that the former Splash location has been reopened as a Russell Speeder's carwash by individuals who have provided to your Board many documents touting their expertise as operators of carwashes, leading to the conclusion that they will continue to successfully operate a carwash 900 feet to the north of the Revised Project. Indeed, when, in an overabundance of caution, the Planning Board subjected the Revised Project to additional scrutiny under SEQRA relating to acoustical impacts and traffic impacts, the significance of the existence of the Russell Speeder's carwash was cited by the Town's retained traffic expert as a significant factor to be considered in terms of evaluating impacts. Significantly, based upon current empirical studies conducted by the Town's

retained traffic expert, the expert concluded that (a) anticipated peak hour activity for the revised project ***would be less than predicted in his 2011 studies*** (upon which the Planning Board's negative declaration in connection with the Prior Project was based and sustained upon judicial review) and that (b) "[t]his ***peak demand is also likely to be divided between the two carwash facilities***, if both are in operation simultaneously⁴. As I am certain that your Board will recognize, this significant decrease in impacts occasioned first by the reduction in scale of the Revised Project and secondly by the operation of the Russell Speeder's carwash only lends further credence to the appropriateness of findings of compliance with the standards necessary for issuance of the requested special permit.

As of this writing, the Planning Board has not yet issued its SEQRA determination in connection with the Revised Project but we believe that such determination can only take the form of an amended negative declaration reflecting the significant decrease in impacts applicable to the Revised Project and the updated traffic and acoustic studies. We anticipate that an amended negative declaration and the Planning Board's report as to the factors applicable to the issuance of the special permit will be issued sometime in May. Upon issuance of the Planning Board's SEQRA determination and report/recommendations in connection with the factors necessary for issuance of the special permit, this submission will be supplemented.

We very much look forward to appearing before your Board in connection with the application for issuance of a special permit.

Yours very truly,



Charles V. Martabano

cc: Splash Bedford Hills, LLC
Peter Helmes
Martabano Family Representatives
Joel Sachs, Esq.

⁴ It is, of course, to be recognized in this regard that it is a matter of record that the applicants' traffic studies were prepared ***without*** taking credit for reductions in traffic predicated upon the existence of another car wash and such reports were reviewed and approved as accurate by the expert retained by the Planning Board and the Planning Board's determination to accept such reports as accurate was upheld by Supreme Court.



pd
ck #
10070
Receipt
2317

ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507
Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.info

APPLICATION FOR A SPECIAL PERMIT

1. Name of Owner: 570 North Bedford Road/LLC ONAB Corp.
Address: 562 & 570 Bedford Road, Bedford Hills, N.Y. 10507
Telephone/Email: 914-242-6200
2. Name of Applicant, if other than Owner: Splash Bedford Hills, LLC. (Attn: Mark Curtis, CEO)
Address: 625 West Putnam Ave., Greenwich, CT. 06830
Telephone/Email: 203-324-5400
3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):
Kellard Sessions Consulting & The Helmes Group, LLP.
Address: (Kellard Sessions) 500 Main St. Armonk, NY. 10504 / (The Helmes Group) 184 Katonah Ave. Katonah NY. 10536
Telephone/Email: (Kellard Sessions) 914-273-2323 / (The Helmes Group, LLP) 914-232-4633
4. Identification Property:
Street Address: 562 & 570 Bedford Road, Bedford Hills, N.Y. 10507
Tax ID: Section: 72.05, Block: 1, Lots: 39, 39.1, & 33 Zoning District: RB & R-1/2A
Total Land Area: 1.67 Acres
% of Building Coverage: 14% % of Impervious Surface 48%
Property Abuts a State or County Highway, parkway, thruway or park: Yes X No
Property is within 500 feet of the boundary of the Town of Bedford: Yes: No: X
Property is on the South side of Bedford Rd. (Rt. 117) within the unincorporated area of the Town of Bedford.

APR 22 2014

BEDFORD ZONING
BOARD OF APPEALS

ZONING BOARD OF APPEALS
APPLICATION FOR A SPECIAL PERMIT

Page 2

5. Request:

The applicant requests that the Board approve the Issuance of a Special Permit under the following section of the Code of the Town Bedford:

Article: V Section: 125-49 and 125-68

The applicant proposes the following Special Permit:

TO ALLOW FOR THE OPERATION OF A CAR WASH AND DETAIL
FACILITY WHICH SUCH FACILITIES ARE CLASSIFIED AS "PUBLIC GARAGES"
UNDER THE TOWN CODE AND THEREFORE REQUIRE ISSUANCE OF A SPECIAL
PERMIT BY THE ZBA.

6. Plans required:

Include six copies of a narrative, survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

8. Site Plan:

Include a Preliminary Site Plan Application form, fee, and ten (10) copies of a Preliminary Site Plan complying with all requirements of Article IX, Section 125-88 of the Code of the Town of Bedford.

9. Fees: (make checks payable to the Town of Bedford)

Special Permit Application \$350.00

Preliminary Site Plan: \$
(As required by Fee Schedule Town of Bedford Code)

Total: \$

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

MARK CURTIS

Rev. 3/10/10

RECEIVED

APR 22 2014

BEDFORD ZONING
BOARD OF APPEALS

4/22/14
Date

4/22/14
Date

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **Estate of Frances C. Tilt**
 33 Hook Road
 Bedford, NY 10506

For a variance of the Town of Bedford Zoning Ordinance to permit:

An already installed 4-foot wood board fence on top of an existing 2-foot high stone wall as a replacement for a pre-existing, non-conforming wood board fence resulting in a total height of 6 feet in the front yard where 4 feet is permitted when the fence is located less than 20 feet from the front property line. There is an existing, non-conforming wire fence located in front of the wall. This being a variance of Article III Section 125-15 A (1) (b) and (3) (g) for property located on:

33 Hook Road
Bedford, NY 10506

designated as Section 73.14 Block 1 Lot 15 on the Tax Maps of the Town of Bedford in a R-4 Acre Zoning District. Said hearing will take place on **Wednesday, the 11th day of June 2014**, at the Town House Offices at 425 Cherry Street, Bedford Hills, New York, at **7:30 P.M.** At this hearing all persons appearing in favor of or in opposition to the above application will be heard. Attendance at said hearing is not required. Applicants or their representative must be present.

DATED: May 21, 2014
Revised May 27, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello, Secretary
Town of Bedford Zoning Board of Appeals
425 Cherry Street
Bedford Hills, NY 10507
(914) 666-4585; (914) 666-2026
acostello@bedfordny.gov
www.bedfordny.gov



ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507

Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.gov

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MAY 1 2014

BEDFORD ZONING
BOARD OF APPEALS

APPLICATION FOR A VARIANCE

1. Name of Owner: Estate of Frances Tiet
Address: 33 Hook Road
Telephone/Email: Not applicable
2. Name of Applicant, if other than Owner: Peter Canby
Address: 609 Harris Rd P.O. Box 189, Bedford NY 10506
Telephone/Email: 914 234-6487 peter-canby@newyorker.com
3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):
N/A
Address: —
Telephone/Email: —
4. Identification Property:
Street Address: —
Tax ID: 7314-1-15 Zoning District: 2A Total Land Area: 4.555
Age of the Building 1991 fence
Is the property located in a designated Historic District? NO
% of Building Coverage: — % of Impervious Surface —
Property Abuts a State or County highway, parkway, thruway or park: Yes — No ✓
Property is within 500 feet of the boundary of the Town of Bedford: Yes — No: ✓
Property is on the S/E side of Hook within the unincorporated area of the Town of Bedford.

ZONING BOARD OF APPEALS
APPLICATION FOR A VARIANCE

Page 2

5. Request:

The applicant requests that the Board approve the issuance of a Variance under the following section of the Code of the Town Bedford:

Article: _____ Section: 125-15 A.(1)(b)
(8)(g)

To Permit:

cedar stockade fence on top of existing stone wall
resulting in overall height of six feet.

6. Plans required:

Include six copies of survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

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8. Fees: (make checks payable to the Town of Bedford)

BEDFORD ZONING
BOARD OF APPEALS

Variance

(As required by Fee Schedule Town of Bedford Code)

Residential:

\$350.00

Commercial:

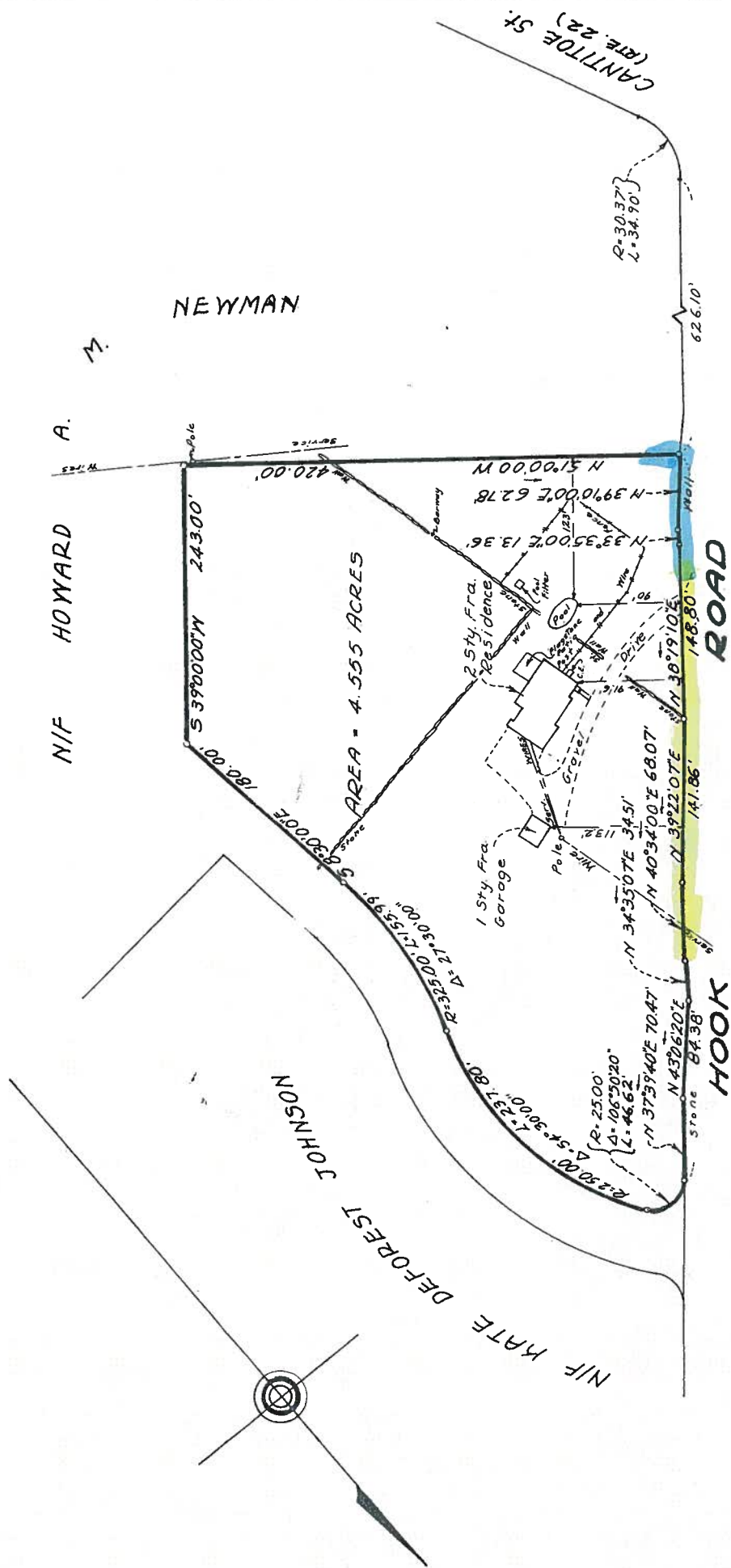
\$550.00


Signature of Owner

May 1, 2014
Date


Signature of Applicant

May 1, 2014
Date



SURVEY OF PROPERTY

prepared for

FRANCES C. TILT

-situate in the

TOWN OF BLDORF
WESTCHESTER COUNTY

文
字
—

Scale: 1" = 100'

*Possession as indicated.
Brought to date Oct. 22, 1963.
This is to certify that the survey on which this map
is based was completed: Mar. 25, 1955 and that this map
was completed: Apr. 12, 1955.*

LETTER OF PERMIT DENIAL



Town of Bedford
Building Dept.
425 Cherry St.
914-666-8040

Application #:

Date: 5/27/2014

Parcel ID: 73.14-1-15

Owner Information

Tilt, Frances

Applicant Information

Tilt, Frances
33 Hook Rd

Bedford NY 10506

Location: 33 Hook Rd

Parcel ID: 73.14-1-15

Permit Type: Fence

Work Description: Already installed 6-foot wood board fence on top of an existing stone wall

Dear Resident,

Regarding the application for a Fence Permit on the property referenced above, the following facts are noted. This property is located in R-2A Zoning District. The requirements of the Zoning Ordinance of the Town of Bedford in comparison to your proposal are listed as follows:

An already installed 4-foot wood board fence on top of an existing 2-foot high stone wall as a replacement for a pre-existing, non-conforming wood board fence resulting in a total height of 6 feet in the front yard where 4 feet is permitted when the fence is located less than 20 feet from the front property line. There is an existing, non-conforming wire fence located in front of the wall. Article III Section 125-15 A (1) (b) and (3) (g).

DENIAL Revised: 5/27/14

Because your project does not meet the requirements of the Town of Bedford Zoning Ordinance, your application for a building permit is DENIED. If you wish to proceed with your request, you may, within sixty days of this letter, apply to the of the above provisions

Very truly yours,

Steven Fraietta

Building Inspector

Measured:
34 C EO
5127114

48"

05.27.2014 09:38









PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **Giuseppe and Camille Luppino**
212 Baldwin Road
Mt. Kisco, NY 10549

for a variance of the Town of Bedford Zoning Ordinance to permit:

The construction of a detached accessory structure to be used as a 2-bay garage with a studio apartment above which the family will occupy while a new single family residence is under construction resulting in two residences on one building lot during construction which is a variance of Article III Section 125-12A. The cottage does not meet the requirements of the Town Code resulting in and variances of Article VIII Section 125-79.1A. (1) and (2) to permit a cottage to be located in a structure that has been in existence for less than 5 years and where total floor area to be occupied by the cottage has been in existence for less for less than 5 years. Property is owned by the applicants and located on:

212 Baldwin Road
Mt. Kisco, NY 10549

designated as Section 83.08 Block 1 Lot 12 on the Tax Map of the Town of Bedford in a Residential 4 Acre Zoning District. Said hearing will take place on **Wednesday, the 11th day of June 2014**, at the Town House Offices at 425 Cherry Street, Bedford Hills, New York, at **7:30 P.M.** At this hearing all persons appearing in favor of or in opposition to the above application will be heard. Attendance at said hearing is not required.

Applicants or his representative must be present.

DATED: May 20, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello, Secretary
Town of Bedford Zoning Board of Appeals
425 Cherry Street
Bedford Hills, NY 10507
(914) 666-4585; FAX: (914) 666-2026
acostello@bedfordny.gov
www.bedfordny.gov

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BEDFORD ZONING
BOARD OF APPEALS



ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507
Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.info

APPLICATION FOR A VARIANCE

1. Name of Owner: Giuseppe + Camille Luppino
Address: 212 Baldwin Rd, Mt Kisco, NY 10549
Telephone/Email: 914 234 8618 / camilforeri@aol.com
2. Name of Applicant, if other than Owner: (SAME)
Address: _____
Telephone/Email: _____
3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):
JD Barrett + Associates
Address: 109 Sport Hill Rd, Easton, CT 06612
Telephone/Email: 203 372 5905 / jeri@jdbarrett.com
4. Identification Property:
Street Address: 212 Baldwin Rd
Tax ID: Sect 83.08, Blk 1, Lot 12 Zoning District: R-4
Total Land Area: 4.002 AC
% of Building Coverage: 2.87 % of Impervious Surface: 6.8%
(garage only) 0.47 (garage only) 0.47%
Property Abuts a State or County Highway, parkway, thruway or park: Yes _____ No X
Property is within 500 feet of the boundary of the Town of Bedford: Yes _____ No: X
Property is on the north side of Baldwin Rd within the unincorporated area of the Town of Bedford.

ZONING BOARD OF APPEALS
APPLICATION FOR A VARIANCE
Page 2

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BEDFORD ZONING
BOARD OF APPEALS

5. Request:

The applicant requests that the Board approve the issuance of a Variance under the following section of the Code of the Town Bedford:

Article: 125-79.1

Section: A(1), A(2)

To Permit: VARIANCE REQUEST #1

To allow construction of a new garage with an apartment above that contains temporary plumbing and to allow the temporary habitation of the apartment by the Luppino family (of 3) for approximately 12-15 months while they demolish and construct their new house (in the same general area as their existing house).

VARIANCE REQUEST #2

To allow the temporary plumbing in the apartment to become permanent plumbing after the temporary habitation of the apartment is terminated upon completion of the new house, rather than having to wait 5 years to re-install the plumbing, per code requirements. The apartment would not be rented for a period of 5 years.

6. Plans required:

Include six copies of survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

8. Fees: (make checks payable to the Town of Bedford)

Variance

(As required by Fee Schedule Town of Bedford Code)

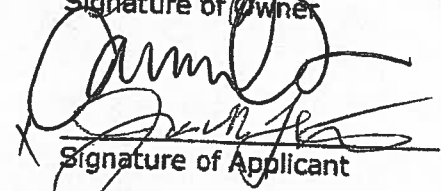
Residential:

\$350.00

Commercial:

\$550.00


Signature of Owner


Signature of Applicant

Rev. 3/10/10

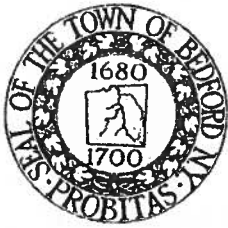
2/25/14

Date

2/25/14

Date

LETTER OF PERMIT DENIAL



Town of Bedford
Building Dept.
425 Cherry St.
914-666-8040

Application #:

Date: 5/20/2014

Parcel ID: 83.8-1-12

Owner Information

Luppino, Giuseppe

Applicant Information

Luppino, Giuseppe

Luppino, Camille Fareri

212 Baldwin Rd

Mt Kisco

NY

10549

Location: 212 Baldwin Rd

Parcel ID: 83.8-1-12

Permit Type: Accessory Building

Work Description: Detached accessory structure to be used as a 2-bay garage with studio apartment above.

Dear Resident,

Regarding the application for a Building Permit on the property referenced above, the following facts are noted. This property is located in R-4A Zoning District. The requirements of the Zoning Ordinance of the Town of Bedford in comparison to your proposal are listed as follows:

The construction of a detached accessory structure to be used as a 2-bay garage with a studio apartment above which the family will occupy while a new single family residence is under construction resulting in two residences on one building lot during construction which is a variance of Article III Section 125-12A. The cottage will require a Special Use Permit from the Planning Board (Article VIII Section 125-79.1); and variances of Article VIII Section 125-79.1A. (1) and (2) from the Zoning Board of Appeals to permit a cottage to be located in a structure that has been in existence for less than 5 years; where total floor area to be occupied by the cottage has been in existence for less for less than 5 years. A permit from the Wetlands Control Commission is required.

Because your project does not meet the requirements of the Town of Bedford Zoning Ordinance, your application for a building permit is DENIED. If you wish to proceed with your request, you may, within sixty days of this letter, apply to the of the above provisions

Very truly yours,

Steven Fraietta
Building Inspector

May 1, 2014

Mr. Peter Michaelis, Chairman
Zoning Board of Appeals (ZBA)
Town of Bedford
425 Cherry Street
Bedford Hills, NY 10507

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BEDFORD ZONING
BOARD OF APPEALS

Re: Luppino Property
Application for a Zoning Variance for a Cottage/Garage Apartment
Premises: 212 Baldwin Road, Mt. Kisco, NY
Section: 83.08, Block: 1, Lot 12

Dear Chairman Michaelis and Members of the ZBA:

On behalf of the applicants, Joseph and Cami Luppino, 212 Baldwin Road, the following information is provided in support of a zoning variance request in connection with Article VIII, Section 125-79.1 Sections A(1) and A(2) Cottages, to allow the construction of a new detached garage with apartment (cottage) on their property, noted above. A variance is required because Section 125-79.1, A(1); A(2) requires that a cottage can only be created when the structure and floor area have been in existence for at least five years, and the subject structure for this application is proposed as a new structure. Seven copies of the following information are provided:

- This explanatory **Cover Letter**, prepared by J.D. Barrett & Associates, LLC, dated May 1, 2014.
- A completed **Zoning Board of Appeals Application** for a variance to Code Section 125-79.1, prepared by J.D. Barrett & Associates, LLC, dated February 25, 2014.
- A **ZBA Application Fee** of \$350.00
- A **Building Permit Application** for construction of the subject garage/apartment, prepared by Joseph Luppino, Westchester County Home Improvement License #WC-16851-H05, and Joseph Crocco Architects, Armonk, NY, dated March 3, 2014.
- A copy of **Planning Board Resolution** No. 14/07-Denial for Special Permit to Construct Cottage, following the March 27, 2014 PB meeting.
- Proposed **Architectural Plans** for the subject garage and new house, prepared by Joseph Crocco Architects, Armonk, NY, dated February 11, 2014.
- **Site Plans** for the project, prepared by J.D. Barrett & Associates, LLC, dated April 25, 2014, entitled:
 - Sheet 1 of 3 – Site Information Plan
 - Sheet 2 of 3 – Proposed Site Plan
 - Sheet 3 of 3 – Tree Removal and Planting Plan
- A **Property Survey**, entitled “Topographic Survey”, prepared by H. Stanley Johnson Surveyors, dated April 1, 2013.
- A **WCDH Approved Septic Plan**, entitled “On-Site Waste Water Treatment System & Well Plan”, prepared by Bibbo Associates, dated January 27, 2014.

Overview

The property owners/applicants wish to demolish and remove their existing house and barn/garage and construct a new house with garage (in generally the same location) and a detached garage with an apartment above. They would prefer to remain on the property during the time that the new house is being constructed. Inasmuch, they are proposing to first build the proposed two-car garage with apartment above so that their family of three can live in the apartment for approximately 12-15 months while the new house is being constructed. This would require that (temporary) plumbing be installed in the garage apartment upon construction so that the apartment is habitable for the family. Once the new house is constructed, the family would move into the new house and the temporary residence in the apartment would be terminated.

Variance Requests

The purpose of the primary zoning variance request is to allow the construction of a new detached garage with apartment above, that the Luppino family of three can live in for approximately 12-15 months while their existing house is demolished and their new house is constructed. Once the new house is constructed, the temporary habitation in the garage apartment would cease. This would require that plumbing be allowed to be installed in the apartment for use during their habitation. The applicants are prepared to remove the plumbing from the structure once their new house is constructed and habitation in the garage apartment ceases.

A secondary variance request to allow the plumbing to remain in the apartment is also requested, but it is solely a secondary request to the primary request, that the applicants be allowed to inhabit the apartment for 12-15 months while the new house is constructed. The applicants have agreed that should the secondary request be granted to allow the plumbing to remain in the garage apartment that the cottage would not be rented or inhabited for the required five-year period.

Background

The property is located in the residential 4-acre district on the north side of Baldwin Road and is 4.002 acres in size. It is a gently sloping property west to east, with a wetland system and associated buffer at the north and east property. The majority of the proposed work is outside the regulated wetland buffer area, but modest encroachment is proposed and a wetland permit from the BWCC will be required. The applicants have appeared before the BWCC and at this time the BWCC is supportive of the project, pending agreement on several ancillary environmental matters. We believe that Wetland Permit approval will be conditionally granted in the coming weeks.

The applicants have also appeared before the Planning Board (PB) to request a Special Permit to construct the cottage on the property. The PB was required to deny the Special Permit request because it did not comply with Article VIII, Section 125-79.1 of the Town Code, although the Board was understanding of the project's need and goal. The applicants will return to the PB for a Special Permit to construct the garage/apartment, providing the ZBA grant the requested variance to proceed.

Property coverage calculations have been prepared for the existing and proposed condition and are provided on the plans. In all cases the project coverage complies with zoning standards for the 4-acre zone. For example, in the proposed condition, the building coverage, including the subject detached garage with apartment, new house and pool would be 2.87%, where 3% is permissible. The impervious surface coverage would be 6.88%, where 8% is permissible. The architect has calculated that the square footage (living area) of the apartment/cottage would be 760 SF, where 800 SF is permissible. It has also been calculated that the square footage of the total floor area (living space) of the proposed house is 5562

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BEDFORD ZONING
BOARD OF APPEALS

SF, hence the apartment floor area of 760 SF would represent approximately 14% of the total floor area of the principal residence, where 25% is permissible.

Summary of Section 125-79.1 Cottages

The following provisions (1-10) of the Town Code are referenced as standards that the ZBA considers when granting variances for cottage uses and the PB considers for Special Permit requirements for cottage uses. The Code provision is indicated in *italic* below, followed by a discussion of how this project relates to each provision.

- 1) *The accessory building in which the cottage is to be located shall have been in existence prior to the adoption of this chapter. No permit for a cottage shall be granted until five years after the construction of the accessory building, including all additions.*

A zoning variance to this section is required because the proposed subject structure will be new and has not been in existence for 5 years. A Special Permit from the PB will also be required for this section of the Code. Following review of the project with the ZBA, the applicants are agreeable to pursuing a Special Permit to this Code section with the PB.

- 2) *The total floor area to be occupied by the cottage within the accessory building must have been in existence prior to the adoption of this chapter.*

As is the case above, the subject structure will be new and the floor area has not been in existence since the adoption of this Code section in 1989. Hence, a variance from the ZBA and a Special Permit from the PB are required to address this section of the Code.

- 3) *The owner of the lot on which the cottage is to be located shall occupy at least one of the dwelling units on the premises.*

Upon completion of all construction of the subject garage and apartment and the new house, the owners shall reside in the new house. The garage apartment may be rented at some future date to a family member, but not until the structure has been in existence for at least five years.

- 4) *There shall be no more than one cottage or accessory apartment per lot.*

The applicants' proposal for their property will ensure that following construction of the new garage with apartment and the new house, that there will be no additional cottages or accessory apartments located on the property.

- 5) *The lot must meet the lot area, yard and coverage requirements for the zoning district in which it is located. The Planning Board may reduce these requirements by not more than one-third (1/3) where it determines that this reduction will conform to the spirit of the regulations and will enable the proper development of the property, including adequate parking areas and accessibility and compliance with health and safety requirements. In the case where the accessory structure does not meet yard requirements, the Planning Board may require that no windows shall face the adjacent owner's property and may require the installation of screening and/or planting to buffer the accessory structure from adjoining residences. [Amended 8-4-1992]*

The lot is zoning compliant in terms of area and all yard and coverage requirements with respect to the proposed site plan, and hence shall be zoning compliant. A Zoning Conformance Chart is located on the Site Information Plan, Sheet 1 of 3. The property will provide adequate parking for both the principal residence and the garage with apartment. The improvements proposed are

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BEDFORD ZONING
BOARD OF APPEALS

generally centrally located on the property and extensive landscaping and fencing is also proposed to frame and screen the improvements from adjacent properties and Baldwin Road. No adverse negative views onto or into the property are anticipated.

- 6) *A minimum of two off-street parking spaces suitable for year-round use shall be provided on the lot. The Board may require the installation of screening and/or planting to buffer parking areas from the street or adjoining residences. A single driveway shall be used for access to both the main residence and cottage.*

A single new driveway is proposed to access both the subject detached garage with apartment and the new house. The subject garage includes indoor parking for two cars, and two indoor garage parking spaces are proposed in the main house, as well. In addition, a parking court between the two garages measures approximately 70' x 24', which is enough space for additional outdoor parking of vehicles, should the need arise for same.

- 7) *The cottage shall contain at least 400 square feet and not more than 800 square feet of gross floor area, but shall not exceed 25% of the total floor area of the principal residence structure unless, in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building.*

The floor area (living space) of the cottage is approximately 760 SF, which is greater than 400 SF and less than 800 SF. The total floor area (living space) of the proposed main house is 5562 SF, hence the cottage living area represents approximately 14% of the living area of the principal residence, where 25% is permissible.

- 8) *In lieu of the requirements of Article VII, 125-58, of this chapter requiring the submission of a preliminary site plan, an applicant under this section shall furnish sufficient data to indicate existing building and lot conditions to enable the Planning Board and Building Inspector to review the application and the Building Inspector to inspect the premises. This information shall include an informal, dimensional floor plan of the proposed cottage. No preliminary site plan fee is required. An application fee shall be paid as listed in the fee schedule adopted by the Town Board.*

The applicants are proposing to demolish the existing structures on the property and build new structures to replace them. Inasmuch, the applicants have provided proposed architectural plans, site plans, drainage plans, septic plans and a new survey to facilitate the Zoning Board's review of this project.

- 9) *The approval of the Westchester County Department of Health must be obtained for water supply and sewage disposal systems prior to the approval of the special use permit.*

The project's septic engineer has designed and procured septic system and well approval for this project. A copy of the approved septic plan from Westchester County Department of Health (WCDH) is provided. The septic engineer can furnish any other proof of WCDH approval as may be required.

- 10) *The Building Inspector shall inspect the proposed cottage and report, in writing, any deficiencies to the Planning Board prior to the granting of the special use permit.*

The applicants are agreeable to any required inspections that may be necessary by the Building Department to ensure that all new structures are compliant with Town and NYS Building Code.

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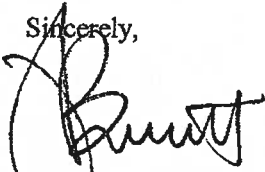
MAY 2 2014

BEDFORD ZONING
BOARD OF APPEALS

Summary

The applicants are appreciative of the ZBA's time and consideration for this application. We look forward to discussing the project with the ZBA at the June 11, 2014 ZBA meeting. Should any further information be required, please call our office so we can provide the requested information. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Barrett", written over a circular stamp or seal.

Jeri D. Barrett, RLA
JDB:lj

Enc.

Cc: Mr. & Mrs. Luppino
Joseph Crocco Architect

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BEDFORD ZONING
BOARD OF APPEALS

**PLANNING BOARD
Town of Bedford
Westchester County, New York**

**RESOLUTION NO. 14/07
DENIAL
LUPPINO**

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BEDFORD ZONING
BOARD OF APPEALS

WHEREAS, an application received March 4, 2013 from Camille and Joseph Luppino, 212 Baldwin Road, Mount Kisco, New York for approval of a proposed accessory cottage, affecting property located at 212 Baldwin Road, Mount Kisco shown and designated on Town Tax Maps as Section 83.8 Block 1 Lot 12, in the Residential Four Acre District, and

WHEREAS, the Planning Board finds that the proposal does not meet the standards for approval as specified in the Town Code as follows:

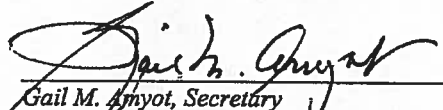
1. The proposal does not meet the requirements of Section 125- 79.1(1) – The proposed cottage has not be in existence for five years.
2. The proposal does not meet the requirement of Section 125-79.1(2) – The total floor area of the cottage has not been in existence prior to the adoption of Section 125-79.1.

NOW THEREFORE BE IT RESOLVED that the request for approval of the special use permit is hereby denied.

ADOPTED: March 27, 2014

DATED: April 9, 2014

The foregoing resolution is certified to be a true copy of the resolution, which was adopted March 27, 2014 by the Planning Board of the Town of Bedford and was filed in the Office of the Clerk of the Town of Bedford on April 9, 2014.


Gail M. Amyot, Secretary
Town of Bedford Planning Board

BWCC
scheduled
June 2nd, 2014

Memo

To: Peter Michaelis, Chairman
Zoning Board of Appeals

From: Andrew Messinger, Chairman
Bedford Wetlands Control Commission

Date: April 23, 2014

Re: Wetlands Application
Demolition of Existing Residence, Garage, Shed and Driveway and
Construction of New Residence, Garage, Driveway, Pool and Fencing
Section 83.8 Block 1 Lot 12, R-4A Zone
212 Baldwin Road, Bedford Corners
Owners/Applicants: Luppino, Giuseppe and Camille

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BEDFORD ZONING
BOARD OF APPEALS

At the Bedford Wetlands Control Commission meeting on April 7, 2014, we heard the wetlands application for the above-noted property. While the Commission did not take action on their application, we do not want to hold up their application before the Zoning Board of Appeals.

In a non-binding vote, the Wetlands Commission indicated unanimously that they have every intention of approving the Luppino application at our June meeting. We are simply waiting for the further submission of answers to the questions raised by the Town Environmental Consultant. There is no reason to believe that the answers to these questions will prevent their application from being approved or substantially changed and I expect this approval to happen at our June meeting.

Best regards,



PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the Town of Bedford will hold a public hearing on the following:

Request of: **Kevin McKenna**
dba Twist Frozen Yogurt and Bar
120 Bedford Road
Katonah, NY 10536

for a variance of the Town of Bedford Zoning Ordinance to permit:

- (1) Four signs on the parcel where 2 signs are permitted. Article XI Section 125-20.B, 125 Attachment 1.
- (2) A Type D: window. A sign painted on the rear window of the building covers more than 20% of the glass area of the window in which it is located. Article XI Section 125-120.B. (4).

For property owned by **D. R. Katonah, LLC.** and located on:

120 Bedford Road
Katonah, NY 10536

designated as Section 60.7 Block 2 Lot 37 on the Tax Map of the Town of Bedford in a CB District. Said hearing will take place on the **Wednesday, the 11th day of June 2014** at the Town House Offices, 2nd Floor, 425 Cherry Street, Bedford Hills, New York at **7:30 p.m.** At this hearing all persons appearing in favor of or in opposition to the above application will be heard. Attendance at said hearing is not required. Applicant or his representative must be present.

DATED: May 21, 2014

Peter Michaelis, Chair
Town of Bedford Zoning Board of Appeals

Inquiry may be directed to:
Alexandra J. Costello - Secretary
Bedford Zoning Board of Appeals
425 Cherry Street, Bedford Hills, NY 10507
(914) 666-4585; Fax: (914) 666-2026
acostello@bedfordny.gov
www.bedfordny.gov

LETTER OF PERMIT DENIAL



Town of Bedford
Building Dept.
425 Cherry St.
914-666-8040

Application #:

Date: 5/21/2014

Parcel ID: 60.7-2-37

Owner Information

D R Katonah Llc

Applicant Information

D R Katonah Llc

Attn: Rednick Realty
125 North Main St

Portchester NY 10573

Location: 122-13 Bedford Rd

Parcel ID: 60.7-2-37

Permit Type: Sign

Work Description: Signs for "Twist Frozen Yogurt"

Dear Resident,

Regarding the application for a Sign Permit on the property referenced above, the following facts are noted. This property is located in CB Zoning District. The requirements of the Zoning Ordinance of the Town of Bedford in comparison to your proposal are listed as follows:

- (1) Four signs on the parcel where 2 signs are permitted. Article XI Section 125-20.B, 125 Attachment 1.
- (2) A Type D: window. A sign painted on the rear window of the building covers more than 20% of the glass area of the window in which it is located. Article XI Section 125-120.B. (4).

Because your project does not meet the requirements of the Town of Bedford Zoning Ordinance, your application for a building permit is DENIED. If you wish to proceed with your request, you may, within sixty days of this letter, apply to the of the above provisions

Very truly yours,


Steven Fraietta
Building Inspector



ZONING BOARD OF APPEALS

Town of Bedford, Westchester County, New York
425 Cherry Street, Bedford Hills, New York 10507
Alexandra J. Costello, Secretary
914-666-4585; 914-666-2026 FAX
acostello@bedfordny.info

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APPLICATION FOR A VARIANCE

BEDFORD ZONING
BOARD OF APPEALS

1. Name of Owner: Jeffrey Rednick / D.R. Katonah LLC
Address: 125 N Main St. Suite 100, Port Chester NY 10573
Telephone/Email: 914-937-4620 — jrednick@gmail.com
2. Name of Applicant, if other than Owner: _____
Address: _____
Telephone/Email: _____
3. Name of Professional (New York State Licensed Architect, Engineer, Land Surveyor, Landscape Architect):
* Nicholas Rudyk / Hudson Sign Co. —
Address: 211 N Highland Ave. Ossining NY 10562
Telephone/Email: 914-488-5555 nick@hudsonsignco.com
4. Identification Property:
Street Address: 120 Bedford Rd., Katonah, NY, 10536
Tax ID: ~~87~~ 60.7, 2, 37 Zoning District: CB
Total Land Area: 2.10
% of Building Coverage: N/A % of Impervious Surface N/A
Property Abuts a State or County Highway, parkway, thruway or park: Yes ☒ No ☐
Property is within 500 feet of the boundary of the Town of Bedford: Yes: ☐ No: ☒
Property is on the _____ side of _____ within the unincorporated area of the Town of Bedford.

ZONING BOARD OF APPEALS APPLICATION FOR A VARIANCE

Page 2

5. Request:

The applicant requests that the Board approve the issuance of a Variance under the following section of the Code of the Town Bedford:

Article: _____ Section: _____

To Permit:

Logo installed on front window of store. Also graphic on rear windows of store. Graphic on rear window provides privacy for back stock room.

4 Signs total where 2 are permitted.

type D - in excess of 20% of glass area.

6. Plans required:

Include six copies of survey, site plan, building elevations and floor plans.

7. Public Notice:

Notice of the public hearing shall be published at least 10 days prior to the hearing in the Town newspaper and shall be mailed by the applicant at least 10 days prior to the hearing to all owners of property within 500 feet of the perimeter of the subject lot. The expense of publishing and mailing any notice shall be paid by the applicant, who shall file an affidavit of mailing with the Board Secretary prior to the hearing.

8. Fees: (make checks payable to the Town of Bedford)

Variance

(As required by Fee Schedule Town of Bedford Code)

Residential:

RECEIVED

\$350.00

Commercial:

MAY 7 2014

\$550.00

BEDFORD ZONING
BOARD OF APPEALS

Signature of Owner

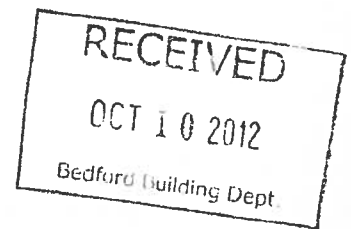
Date

1/25/14

Signature of Applicant

Date

1/25/14



TOWN OF BEDFORD

425 Cherry Street, Bedford Hills, NY 10507 Ph. (914) 666-8040 Fax (914) 666-2026 e-mail: bedford@bedfordny.org

Application for Sign Permit

Fee to be Determined According to the Sign Size

Visual Image of Sign and Survey must be included with Application

1. Name of Applicant: Kevin McKenna, Town: Freenight Bar
Address: 120 Bedford Rd Katonah NY 10536
Telephone/Email: _____
 2. Name of Owner: Jeffrey Palmer, DR Katonah LLC 937-4620
Address: 125 Main St, Suite 100 Port Chester, NY 10573
Telephone/Email: _____
 3. Name of Sign Contractor Preparing Plan: Hudson Sign Co - Nick
Address: 211 N Highland Ave Ossining NY 10562
Telephone/Email: 914-488-5555
 4. Identification Property:
Street Address: 120 Bedford Rd Katonah NY 10536
Tax ID: 60.72+37 Zoning District: CB Total Land Area: _____
 5. Number of Signs existing on the property: 3 (all removed)
 6. Variances for Signs on the property: _____
 7. Number of Signs to be erected: X 2
 8. Size of Signs/Logo to be erected (Letter Height): 12" max letter height on all signs
 9. Length of Frontage of building (Distance from Road): _____
- Signature of Owner: [Signature] Signature of Applicant: [Signature]
- Permit Issued: _____ Date: _____ Fee: _____



Phone: 914-488-5555

Fax: 914-488-5554

info@hudsonsignco.com

www.hudsonsignco.com

ALL DRAWINGS ARE PROPERTY OF AND CAN ONLY BE USED BY HUDSON SIGN CO.



64.00"

42.00"

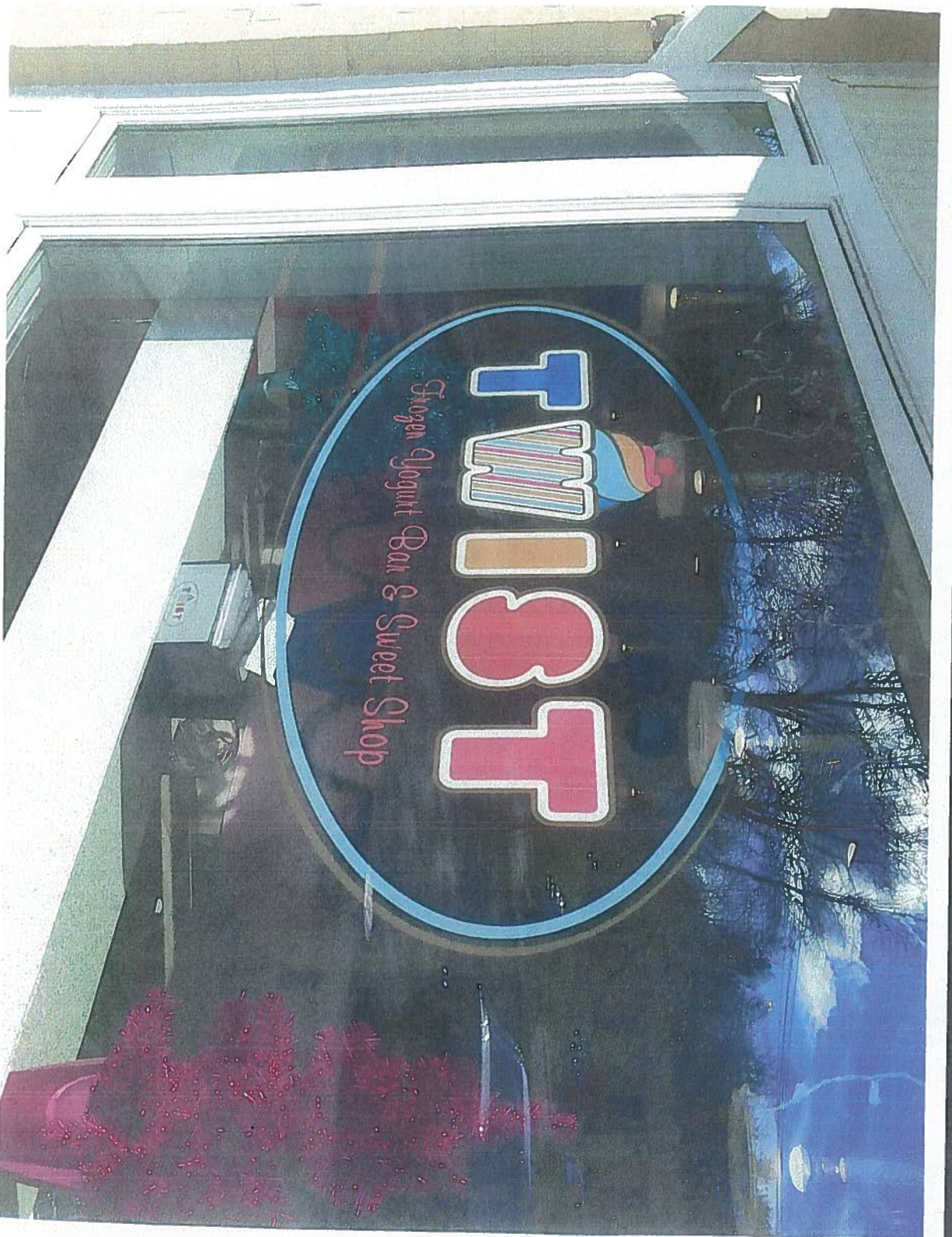


Customer Approval of Drawings Within

X

CHECK THIS BOX FOR
APPROVAL WITH CHANGES

☐



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HUDSON
SIGN CO.

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Customer Approval of Drawings Within

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